

§ 19.127

27 CFR Ch. I (4–1–11 Edition)

§ 19.127 Automatic termination of permits.

(a) *Operating permits.* An operating permit is not transferable. The proprietor's operating permit will automatically terminate in the following circumstances:

(1) If the operations that are authorized by the permit are leased, sold or transferred;

(2) If the company is dissolved on a certain date by an event specified in the laws of the State where the company operates; or

(3) In the case of a corporation, if actual or legal control of the corporation changes, directly or indirectly, whether by reason of change in stock ownership or control, by operation of law, or in any other manner, the permit will terminate 30 days after the change in control. However, if an application for a new permit covering the operations is made within this 30 day period, then the operating permit may remain in effect until TTB takes final action upon the new application. TTB's final action on the new application will automatically terminate the outstanding permit.

(b) *Basic permits.* For provisions related to the automatic termination of an FAA Act basic permit, see part 1 of this chapter.

(26 U.S.C. 5271)

§ 19.128 Change in name of proprietor.

If the name of the proprietor changes, the proprietor must file a letterhead application to amend the operating permit. The proprietor may not conduct operations under the new name before TTB approves the amended operating permit. However, the proprietor does not have to file a new bond or consent of surety.

(26 U.S.C. 5172, 5271)

§ 19.129 Change in trade name.

If the proprietor intends to change or add a trade name that will be used in the operation of the plant, the proprietor must file a letterhead application to amend the operating permit. The proprietor may not conduct operations under the new trade name before TTB approves the amended operating permit. However, the proprietor will not

be required to file a new bond or consent of surety.

(26 U.S.C. 5271)

§ 19.130 Changes in stockholders or persons with interest.

The proprietor must notify TTB of any changes in the list of stockholders or persons with interest that was filed with TTB as required by § 19.93(b). If the change results in a change of control, the proprietor must file form TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d), within 30 days of the change. If the change does not cause a change in control the proprietor:

(a) May file a letterhead notice to amend the operating permit;

(b) May file the amended notice the May 1st following the change in control year rather than within 30 days of the change, or on any other date that the appropriate TTB Officer may approve; and

(c) Must incorporate all changes submitted by letterhead notice in the next TTB F 5110.25 filed.

(26 U.S.C. 5172, 5271)

§ 19.131 Changes in officers, directors, members, or managers.

(a) *General.* If there is a change in the list of officers, directors, members or managers that the proprietor filed as required by § 19.93, the proprietor must:

(1) File form TTB F 5110.25 Application for Operating Permit Under 26 U.S.C. 5171(d) or a letterhead notice to amend the operating permit;

(2) Provide the name and address for each new officer, director, member or manager; and

(3) Incorporate all changes submitted by letterhead notice in the next TTB F 5110.25 filed.

(b) *Waiver.* The appropriate TTB officer may waive the requirement to amend the operating permit if the changes relate to corporate officers listed on the original or current permit who are no longer connected with the operations covered by the permit.

(26 U.S.C. 5171, 5172)

§ 19.132 Change in proprietorship.

(a) *General.* If there is a change in proprietorship at a distilled spirits

plant that holds an operating permit, the following requirements apply to the outgoing proprietor and to the incoming (successor) proprietor.

(1) *Outgoing proprietor.* An outgoing proprietor must comply with the requirements of § 19.147. An outgoing proprietor may transfer spirits to its successor in accordance with § 19.141.

(2) *Successor proprietor.* A successor to the proprietorship of a plant that holds an operating permit:

(i) Must file form TTB F 5110.25 Application for Operating Permit Under 26 U.S.C. 5171(d) and obtain an operating permit;

(ii) Must file the required bonds; and

(iii) May adopt the approved formulas of its predecessor in accordance with §§ 5.28 and 20.63 of this chapter.

(b) *Fiduciary.* If the successor to the proprietorship of a plant is an administrator, executor, receiver, trustee, assignee, or other fiduciary, the successor must comply with the provisions of paragraph (a)(2) of this section. The following rules also apply in this case:

(1) The fiduciary may furnish a consent of surety to extend the terms of the predecessor's bond instead of filing a new bond;

(2) On TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d), the fiduciary may incorporate by reference any information contained in the predecessor's application that is still current;

(3) The successor must furnish a certified copy of the order of the court or other pertinent document showing the successor's qualification as fiduciary; and

(4) The effective date of the qualifying documents that the fiduciary files will be the date of the court order, the date specified in the order whereby the fiduciary assumes control, or if there is no court order, the date that the fiduciary assumed control.

(26 U.S.C. 5172)

§ 19.133 Partnerships.

(a) If there is a death or insolvency of a partner in a company that holds an operating permit under this part, the surviving partner or partners may continue to operate under the operating permit if:

(1) The partnership is not terminated under the laws of the particular State but continues until the winding up of the partnership affairs is complete;

(2) The surviving partner or partners have exclusive right to the control and possession of the partnership assets for purposes of liquidation and settlement; and

(3) A consent of surety is filed where the surety and the surviving partner or partners agree to remain liable on the operations or unit bond.

(b) If the surviving partner or partners acquire the business upon settlement of the partnership, the surviving partner or partners must file as an incoming proprietor and receive approval of the operating permit as required under § 19.132(a)(2).

(26 U.S.C. 5172)

§ 19.134 Change in location.

If the location of the plant changes, the proprietor must:

(a) File form TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d), to amend the operating permit;

(b) File a new bond or a consent of surety on form TTB F 5000.18; and

(c) Not begin operations at the new location prior to approval of the amended operating permit.

(26 U.S.C. 5172, 5271, 5173)

§ 19.135 Change in operations.

If the proprietor wishes to conduct additional operations involving spirits, other than those already approved on the current operating permit, the proprietor must:

(a) File form TTB F 5110.25 Application for Operating Permit Under 26 U.S.C. 5171(d) to amend the permit; and

(b) Not engage in the additional operation prior to approval of the amended permit.

(26 U.S.C. 5171, 5172, 5271)

ALTERNATION OF PLANT PROPRIETORS

§ 19.141 Procedures for alternation of proprietors.

(a) *General.* A proprietor may alternate use of a distilled spirits plant or part of the plant with one or more other proprietors. In order to do so,